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Note verbale dated 6 December 2018 from the Permanent Mission of Portugal to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Portugal to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to submit herewith its report on the implementation of Security Council resolution 2397 (2017) (see annex).

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Annex to the note verbale dated 6 December 2018 from the Permanent Mission of Portugal to the United Nations addressed to the Chair of the Committee

Report of Portugal on the implementation of Security Council resolution 2397 (2017)

I. Introduction

The Government of Portugal is committed to implementing Security Council resolution 2397 (2017) and all previous Council sanctions resolutions on the Democratic People's Republic of Korea, namely, resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017) and 2375 (2017), as well as to fully cooperating with the Security Council Committee established pursuant to resolution 1718 (2006).

Portugal has taken the legislative and executive measures necessary to implement all Security Council sanctions resolutions on the Democratic People's Republic of Korea.

Portugal, as a member of the European Union, has also implemented the restrictive measures imposed in the Security Council sanctions resolutions, following the integration of those measures into the European Union legal order and the corresponding European Union decisions and regulations.

II. Background

Article 8 (3) of the Constitution of the Portuguese Republic provides for the direct integration into the Portuguese legal framework of measures adopted by the competent bodies of international organizations, including the Security Council, provided that a provision to that effect is laid down in the respective constituent treaties. Therefore, sanctions designations pursuant to resolution 2397 (2017) and previous resolutions are directly applicable in Portugal.

Security Council resolutions are transposed into the Portuguese legal framework through decisions and regulations of the Council of the European Union. In accordance with European Union law, such decisions and regulations take immediate and direct effect in all national laws of States members of the European Union. The regulations have general application and are binding in their entirety on European Union citizens and businesses. Moreover, the decisions are binding in their entirety on those to which they are addressed, that is, all European Union member States (article 288 of the Treaty on the Functioning of the European Union). All European Union restrictive measures are published in the *Official Journal of the European Union*.

III. Measures taken to implement resolution 2397 (2017)

Portugal and the other States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed under resolution 2397 (2017) by taking the following common measures:[1]

[1] All common measures are published in the *Official Journal of the European Union*.

(a) Council Implementing Decision (CFSP) 2018/16 of 8 January 2018 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea,[2] which implements the designation of additional persons and entities (travel ban and/or asset freeze);

(b) Council Implementing Regulation (EU) 2018/12 of 8 January 2018 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea,[3] which gives effect to Council Implementing Decision (CFSP) 2018/16;

(c) Council Decision (CFSP) 2018/293 of 26 February 2018 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea,[4] which sets out the commitment of the European Union to implementing the measures contained in resolution 2397 (2017) in the following manner:

(i) The European Union had already introduced a full prohibition on the export of crude oil in Council Decision (CFSP) 2017/1860 of 16 October 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea,[5] with a derogation for exports for humanitarian purposes, subject to prior approval, on a case-by-case basis, by the Committee. In Council Decision (CFSP) 2018/293, it is further specified that the prohibition applies to the direct or indirect supply of all crude oil to the Democratic People's Republic of Korea, whether or not originating in the territories of the member States, including by means of pipelines, rail lines or vehicles;

(ii) The European Union had already introduced a full prohibition on the export of all refined petroleum products in Council Decision (CFSP) 2017/1860, which also provided that the export of such products could be authorized by the competent authority of a member State for humanitarian purposes under the conditions mentioned in paragraph 14 of resolution 2375 (2017). In Council Decision (CFSP) 2018/293, it is further specified that the amount of refined petroleum products authorized for export cannot exceed 500,000 barrels per year and that the means of export include pipelines, rail lines and vehicles;

(iii) Prohibition on importing food and agricultural products, machinery, electrical equipment, earth and stone (including magnesite and magnesia), wood and vessels;

(iv) Prohibition on the acquisition of fishing rights from the Democratic People's Republic of Korea;

(v) Prohibition on exporting all industrial machinery, transportation vehicles, iron, steel and other metals, unless it has been determined by a member State that the provision of spare parts is needed to maintain the safe operation of passenger aircraft of the Democratic People's Republic of Korea;

(vi) Obligation to repatriate to the Democratic People's Republic of Korea, immediately, and no later than 21 December 2019, all nationals of that country earning income in the jurisdiction of a member State and all government safety oversight attachés of the Democratic People's Republic of Korea who are monitoring its workers abroad, unless certain exceptions apply, subject to applicable national and international law;

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[2] *Official Journal of the European Union*, L 4, 9 January 2018, p. 16.
[3] *Official Journal of the European Union*, L 4, 9 January 2018, p. 1.
[4] *Official Journal of the European Union*, L 55, 27 February 2018, p. 50.
[5] *Official Journal of the European Union*, L 265 I, 16 October 2017, p. 8.

(vii) Obligation for member States to seize, inspect and impound any vessel in their ports and granting to member States of the power to seize, inspect and impound any vessel subject to their jurisdiction in their territorial waters where there are reasonable grounds to believe that the vessel has been involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea. Under certain conditions, the provisions concerning the impounding of vessels do not apply;

(viii) Obligation to cooperate as promptly as possible with another State that has information leading it to suspect that the Democratic People's Republic of Korea is attempting to export illicit cargo and where that State requests additional maritime and shipping information;

(ix) Prohibition on providing insurance or reinsurance services to vessels identified as being involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless the Committee has determined, on a case-by-case basis, that the vessel is engaged in activities only for livelihood or humanitarian purposes;

(x) Obligation to deregister any vessel where there are reasonable grounds to believe that the vessel has been involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea;

(xi) Prohibition on providing classification services to vessels identified as being involved in activities, or in the transport of items, prohibited by the Security Council in its various resolutions on the Democratic People's Republic of Korea, unless approved in advance by the Committee on a case-by-case basis;

(xii) Obligation not to register any vessel that has been deregistered by another State, unless approved in advance by the Committee on a case-by-case basis;

(xiii) The prohibition on exporting new or used vessels had already been introduced in Council Decision (CFSP) 2017/345 of 27 February 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea;[6]

(xiv) Obligation to seize and dispose of items the export of which is prohibited under resolution 2397 (2017);

(xv) Prohibition on satisfying any claim in connection with any contract or transaction the performance of which has been affected by the measures provided in resolution 2397 (2017);

(d) Council Regulation (EU) 2018/285 of 26 February 2018 amending Council Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea,[7] which gives effect to the measures set out in Council Decision (CFSP) 2018/293.

The above-mentioned Council regulations are binding in their entirety and directly applicable in all European Union member States. Under Council Regulation (EU) 2017/1509, member States are required to determine the penalties applicable in case of infringements of their provisions.

[6] *Official Journal of the European Union*, L 50, 28 February 2017, p. 59.

[7] *Official Journal of the European Union*, L 55, 27 February 2018, p. 1.

IV. Information from Portuguese authorities

The application and implementation of Security Council sanctions and the corresponding European Union restrictive measures are regulated by Law No. 97/2017, of 23 August 2017. The law refers to national competent authorities which are responsible for coordinating the implementation of restrictive measures and for providing information on the subject. More specifically, the national competent authorities disseminate updates to Council resolutions and European Union legal acts concerning restrictive measures, in order to ensure the effective implementation of such measures.

No violation or suspicion of violation of resolution 2397 (2017) has been reported by the Ministry of Defense, the Ministry of Home Affairs, the Ministry of Economy, the Ministry of Finance, the Bank of Portugal or any other entity, whether private or public, responsible for the concrete implementation of restrictive measures.